IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3716 OF 2006

Vishnu Balanna Mallelu (deceased)
by his L.Rs.
Smt. Asha Vishnu Mallelu ..Petitioner.

Vs.

Mahananda Murlidhar Raut ..Respondent.

...

Mr. S.J. Rairkar for the Petitioner.
Mr. S.D. Thokade for the Respondent.

...

CORAM: DR. D.Y. CHANDRACHUD, J.

19th June, 2006.

P.C. :

The landlady is admittedly in occupation of two rooms along with her married brother, Vasant (who has two children) and two other brothers (Ramakant and Jagdish). The Petitioner herself is 45 years of age, while Ramakant and Jagdish are respectively aged 38 and 34. The First Appellate Court was justified in coming to the conclusion that the accommodation, consisting of two rooms, in the occupation of the Plaintiff – landlady was insufficient to meet the requirements of the family. However, having regard to the fact that the Respondent is a widow and has her own family to

maintain, only a partial decree for eviction has been passed in respect of one room. The fact that the Plaintiff's two other brothers Rajendra and Babu have acquired sufficient accommodation of their own does not negate the Plaintiff of her own accommodation. The Plaintiff as a landlady cannot be compelled to be dependent on her two other brothers and it is entirely for her to decide as to how and where she choses to reside. In these circumstances, the order passed by the First Appellate Court is perfectly just and equitable and does not fall for interference under Article 227. The Petition is, in the circumstances dismissed. Having regard to all the facts and circumstances, the partial decree for eviction shall be executed after the expiry of a period of four weeks from today.